

KATHERINE DROLETT,

Plaintiff,

v.

ANTHONY BRIAN ROBINSON,
ONESPA WORLD RESORT SPAS (NORTH
CAROLINA), INC. *doing business as*
Mandara Spa

Defendants.

Case 1:20-cv-00213-MR-WCM Document 18 Filed 10/19/20 Page 1 of 3

Although the parties proposed pretrial deadlines in their Report, and indicated generally during the pretrial conference that they could proceed with discovery at this time, Local Civil Rule 16.1(f) provides that “Court-enforceable discovery does not commence until issues have joined and a Scheduling Order has been entered....” See also LCvR 26.1. “[J]oiner of the issues” for purposes of the Local Rules “occurs when the final answer to a complaint, third-party complaint, or crossclaim or the final reply to a counterclaim has been filed, or the time for doing so has expired.” LCvR 16.1(d). “Where Rule 12 motions are filed and briefed, issues will not join until the Court resolves such motions. Where a party files a motion to dismiss fewer than all claims and files an Answer as to the remaining claims, the Court in its discretion may consider issues joined.” Id.

Here, Defendant Robinson has filed an Answer, Motion to Dismiss Plaintiff’s Complaint and Motion to Strike an Answer. See Doc. 10. Briefs were not submitted in support of the motions contained in Robinson’s answer. However, during the initial pretrial conference, counsel stated that Robinson also planned to file a Motion to Strike and such a motion and a supporting memorandum were in fact filed on October 14, 2020. Docs. 14, 15.

The Spa has filed a Motion to Strike pursuant to FRCP 12(f) seeking to strike some of the factual allegations set out in Plaintiff’s Complaint, Doc. 12, but it has not filed an answer.

Accordingly, under this Court's local rules, issues have not been joined and entry of a Scheduling Order would be premature. Therefore, the undersigned will defer entering a Scheduling Order pending the filing of the Spa's answer.

Signed: October 19, 2020

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge

